

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re MONICA V. et al., Persons Coming Under
the Juvenile Court Law.

STANISLAUS COUNTY COMMUNITY
SERVICES AGENCY,

Plaintiff and Respondent,

v.

MARCO V.,

Defendant and Appellant.

F065241

(Super. Ct. Nos. 516082, 516083,
516084)

OPINION

THE COURT*

APPEAL from orders of the Superior Court of Stanislaus County. Ann Q.
Ameral, Judge.

Jacques A. Love, under appointment by the Court of Appeal, for Defendant and
Appellant.

John P. Doering, County Counsel, and Carrie M. Stephens, Deputy County
Counsel, for Plaintiff and Respondent.

-ooOoo-

* Before Levy, Acting P.J., Cornell, J. and Gomes, J.

Marco V. appeals from a juvenile dependency order terminating his reunification services as to his 12-year-old daughter and 10 and eight-year-old sons at a contested 12-month review hearing (Welf. & Inst. Code, § 366.21, subd. (f)).¹ Marco contends the juvenile court erred in terminating his services. We disagree and affirm the order.

PROCEDURAL AND FACTUAL SUMMARY

The issues Marco raises in his appeal are procedural rather than evidentiary. Consequently, a brief summary of the case suffices.

In April 2011, the Stanislaus County Community Services Agency (agency) took Marco's then 11-year-old daughter and eight and six-year-old sons into protective custody, and filed an original dependency petition (§ 300) alleging Marco physically abused his sons and their mother, and that the mother failed to protect the children. Marco was arrested.

In mid-April 2011, the juvenile court ordered the children detained from Marco and placed with their mother. The juvenile court also set a jurisdictional/dispositional hearing, which was conducted in June. At the June hearing, the juvenile court ordered the children removed from Marco's custody and ordered reunification services for him. The juvenile court released the children to the custody of their mother under family maintenance services. The juvenile court also set a combined hearing in November 2011 to review mother's family maintenance and Marco's family reunification services.

In October 2011, the agency removed the children from mother's custody and filed a supplemental petition (§ 387) alleging mother allowed her boyfriend and Marco contact with the children knowing that both men had a significant history of child abuse. The juvenile court ordered the children detained and the agency placed them together in foster care.

¹ All statutory references are to the Welfare and Institutions Code unless otherwise stated.

In January 2012, at a contested jurisdictional/dispositional hearing, the juvenile court sustained the supplemental petition, ordered the children removed from mother and Marco, and ordered reunification for both parents. The juvenile court vacated the family maintenance review hearing and set a 12-month review hearing in June 2012 for Marco and a six-month review hearing in July 2012 for mother.

In March 2012, Marco was arrested on multiple charges involving drugs, theft, threats and a firearm. Prior to his incarceration, according to the agency, he did not participate in his reunification plan. In its report for the 12-month review hearing, the agency recommended that the juvenile court terminate Marco's reunification services.

Marco challenged the agency's recommendation and testified at his contested review hearing in June 2012. He testified he was sentenced and expected to be released from custody by the end of 2012. At the conclusion of the hearing, the juvenile court terminated Marco's reunification services but ordered continuing visitation. This appeal ensued.

DISCUSSION

Marco contends the juvenile court miscalculated his reunification period as beginning in June 2011 when the children were removed from his custody, rather than in January 2012 when the children were removed from his and the mother's custody. As a result of its miscalculation, he further contends, the juvenile court erred in conducting a 12-month review hearing in June 2012 and terminating his reunification services. We disagree.

Once the juvenile court assumes jurisdiction by adjudging a child a dependent under section 300, it may order the child removed from parental custody and order family reunification services. (§§ 361, subd. (c); 361.5, subd. (a).) Alternatively, the juvenile court may permit the child to remain in parental custody under family maintenance services. (§ 362, subd. (b); Cal. Rules of Court, rule 5.695(a)(5).)

The provision of family reunification services is governed by section 361.5, subdivision (a) (“the statute”), which provides:

“[F]or a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall be provided beginning with the dispositional hearing and ending 12 months after the date the child entered foster care as provided in Section 361.49, unless the child is returned to the home of the parent or guardian.”

Under section 361.49, a child is deemed to have entered foster care on the earlier of the date of the jurisdictional hearing or the date that is 60 days after the date on which the child was initially removed from the physical custody of his or her parent. Services may be extended to 18 months from the date of the initial removal under the statute and in some cases even beyond. (*Carolyn R. v. Superior Court* (1995) 41 Cal.App.4th 159, 167.)

Unlike family reunification services, there is no statutory limitation on juvenile court supervision under family maintenance. (§ 16506, subd. (d).) When supervision is no longer required, the juvenile court simply terminates dependency. (*In re Joel T.* (1999) 70 Cal.App.4th 263, 268.) However if, as occurred here, family circumstances change necessitating the filing of a supplemental petition, the juvenile court must conduct jurisdictional and dispositional hearings. (§ 387; Cal. Rules of Court, rule 5.565(e).) At the dispositional hearing on the supplemental petition, the juvenile court must again decide whether to leave the child in parental custody or remove the child and provide services. (Cal. Rules of Court, rules 5.565(e)(2) & 5.695(a).)

With the above principles in mind, we turn to the appeal. Though Marco raises several issues, they all derive from a fundamentally flawed premise expressed in the following quoted statement from his opening brief: “The timeline for parents to receive reunification services does not start until the children are removed from the custody of both parents.” Building on this premise, Marco contends that since the children were removed from his and mother’s custody for the first time in January 2012, that date

marked the beginning of his reunification period and January 2013 marked the twelfth month. Had the juvenile court properly applied the “correct law,” it would have continued services for him.

As we stated, Marco’s premise is faulty, as are all the arguments that flow from it. It is faulty for several reasons. First, Marco cites no statutory authority for his premise. Further, the two cases he cites, *In re A.C.* (2008) 169 Cal.App.4th 636 (*A.C.*) and *In re Erika W.* (1994) 28 Cal.App.4th 470, do not assist him. In fact, the court in *A.C.* refutes Marco’s premise. In summarizing the various holdings pertaining to when “the *section 361.5* clock begins ...[,]” the *A.C.* court stated, “the 18-month clock begins for both parents if the child is detained from their custody at the onset of the dependency action, regardless of whether the court grants one parent custody at the disposition under a family maintenance plan” (*A.C.*, *supra*, 169 Cal.App.4th at p. 648; citing *In re N.M.* (2003) 108 Cal.App.4th 845, 852-855.)

Here, the children were initially removed from Marco and the mother’s physical custody on April 8, 2011, 60 days from which was June 8, 2011. The juvenile court conducted the jurisdictional hearing on June 2, 2011, the earlier date, making it the date the children entered foster care. Given the children’s ages at the initial removal, the statute required the juvenile court to conduct the 12-month review hearing no later than June 2012. Having done so, the juvenile court properly applied the statute.

Because we conclude that the juvenile court properly set and conducted a 12-month review hearing in Marco’s case, we need not address his contention that the juvenile court erred in making findings pertinent to a 12-month review hearing (§ 366.21, subd. (f)), as opposed to a 6-month review hearing (§ 366.21, subd. (e)). We find no error.

DISPOSITION

The order is affirmed.